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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,016	11/28/2000	Heinz Focke	FOCKE11	7235
7590	06/22/2006		EXAMINER	
Todd Deveau Thomas Kayden Horstemeyer & Risley LLP 100 Galleria Parkway N W Suite 1750 Atlanta, GA 30339-5848			TAWFIK, SAMEH	
			ART UNIT	PAPER NUMBER
			3721	
			DATE MAILED: 06/22/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/724,016	FOCKE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sameh H. Tawfik	3721	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 18 May 2006.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 45-54 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 45-47 and 52-54 is/are allowed.

6) Claim(s) 48-51 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

As a result of the out-come of the pre-appeal conference held on 06/15/2006, the finality of paper No. 01122006 has been withdrawn. A new action is taken as disclosed herein.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattei et al. (U.S. Patent No. 4,887,408) in view of (WO 9856662A).

Mattei discloses a process for folding and sealing a wrapper on a dimensionally stable pack comprising the following steps providing a wrapping film (Fig. 2; via 4) for forming the wrapper; wrapping the wrapping film around the pack to form side tabs (Figs. 1 and 3; via 61 and 63), bottom tabs, and top tabs (Figs. 1 and 3; via 9 and 10); causing the side tabs to overlap one another (Figs. 1 and 3); thermally pre-sealing the side tabs (Fig. 2; via 1<sup>st</sup>. sealing station 41); causing the bottom tabs to overlap one another and the top tabs to overlap one another (Fig. 2); thermally pre-sealing the overlapping bottom and side top tabs (Fig. 2; via 2<sup>nd</sup> sealing station 53); permanently sealing the side tabs (via 1<sup>st</sup>. sealing stations 42 and 43); and subsequently permanently sealing the bottom and top tabs (Fig. 1; via 2<sup>nd</sup> sealing stations 54 and 55 located after the 1<sup>st</sup> sealing stations).

Mattei does not disclose that the permanently sealing of the side tabs are done subsequently after the steps of the pre-sealing of the top and bottom tabs. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to

have re-arrange Mattei's sealing stations to have one of the 1<sup>st</sup> sealing stations to be located downward of the 2<sup>nd</sup> sealing stations, in order to affirm the sealing of the side tabs after finishing the step of sealing the top and bottom tabs, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Mattei does not disclose that the wrapping film is shrinkable. However, '662 discloses a similar process comprising a shrinkable wrapper used for the purpose wrapping tobacco.

Therefor, it would have been obvious to one having ordinary skill in the art at the time the invention was substituted Mattei's wrapper by having shrinkable wrapper, as taught by "662, in order to assure the complete and strong wrapping to the articles. Alternatively, the examiner takes an official notice that the mentioned shrinkable wrapper on the tobacco package manufacture is old, well known, and available in the art for the purpose of assuring of strong and complete package around the tobacco.

Regarding claim 49: Mattei discloses the pre sealing steps and the permanent sealing steps do not initiate shrink wrapping of the film, see for example (Fig. 2).

Regarding claim 50: Mattei nor '662 disclose that the step of shrinking the film is done after the side tabs and the bottom and top tabs are permanently sealed by heating. However, it would be obvious to one having ordinary skill in the art by substituting Mattei's wrapping film by shrinkable film, as suggested by '662, the shrinking step will be done after permanently sealing the tabs in order to assure the sealing of the tabs and because it will be much easier sealing the tabs before the shrinking step.

Regarding claim 51: Mattei discloses that the pre sealing of the overlapping tabs covers less than half of the area of overlap of the tabs, see for example (Figs. 1-3).

***Allowable Subject Matter***

Claims 45-47 and 52-54 are allowed, as the prior art of record does not disclose in combination the claimed steps for producing a pack made of thin cardboard comprising the steps of thermally pre-sealing a side tabs; thermally pre-sealing an overlapping transverse and longitudinal folding tabs; moving the packs upwardly into a pack tower and permanently sealing their overlap by full-surface sealing; and then transporting the pack laterally to a sealing path where the transverse and longitudinal folding tabs are surface sealed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sameh H. Tawfik  
Primary Examiner  
Art Unit 3721



ST.